

(PRE-FILED)

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By: **Delegates Pendergrass, Cadden, Goldwater, McHale, Moe, and Pitkin**

Requested: June 23, 1999

Introduced and read first time: January 12, 2000

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Marine Repair Facilities**

3 FOR the purpose of requiring a marine repair facility to provide a written statement  
4 that contains an estimate of repair costs, an estimated completion date, and an  
5 estimate of the surcharge, under certain circumstances; providing that a marine  
6 repair facility may charge a reasonable fee for making an estimate if the fee is  
7 disclosed to the customer before the estimate is made; prohibiting a marine  
8 repair facility from charging a customer an amount that exceeds the written  
9 estimate by a certain percent; providing that under certain circumstances a  
10 marine repair facility is not in breach of contract for failing to complete repairs  
11 by the estimated completion date; requiring a marine repair facility to give a  
12 customer a repair authorization form that lists certain customer rights and  
13 warranty information; requiring that certain information on a repair  
14 authorization form be displayed in a certain manner; providing that under  
15 certain circumstances a marine repair facility may give notice of customer rights  
16 orally; requiring that a marine repair facility give a customer an invoice that  
17 describes all work done on a vessel, certain information about parts used in the  
18 repair, and certain warranty information; requiring a marine repair facility to  
19 offer to return certain replaced parts to the customer; prohibiting a marine  
20 repair facility from charging for repairs not authorized by the customer;  
21 providing that a violation of any provision of this Act is an unfair or deceptive  
22 trade practice under the Maryland Consumer Protection Act; defining certain  
23 terms; providing for the construction of this Act; and generally relating to  
24 marine repair facilities.

25 BY repealing and reenacting, with amendments,  
26 Article - Commercial Law  
27 Section 13-301(14)  
28 Annotated Code of Maryland  
29 (1990 Replacement Volume and 1999 Supplement)

30 BY adding to  
31 Article - Commercial Law

1 Section 14-10A-01 through 14-10A-09, inclusive, to be under the new subtitle  
2 "Subtitle 10A. Marine Repair Facilities"  
3 Annotated Code of Maryland  
4 (1990 Replacement Volume and 1999 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Commercial Law**

8 13-301.

9 Unfair or deceptive trade practices include any:

10 (14) Violation of a provision of:

11 (i) This title;

12 (ii) An order of the Attorney General or agreement of a party  
13 relating to unit pricing under Title 14, Subtitle 1 of this article;

14 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt  
15 Collection Act;

16 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door  
17 Sales Act;

18 (v) Title 14, Subtitle 9 of this article, Kosher Products;

19 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

20 (VII) TITLE 14, SUBTITLE 10A OF THIS ARTICLE, MARINE REPAIR  
21 FACILITIES;

22 [(vii)] (VIII) Section 14-1302 of this article;

23 [(viii)] (IX) Title 14, Subtitle 11 of this article, Maryland Layaway  
24 Sales Act;

25 [(ix)] (X) Section 22-415 of the Transportation Article;

26 [(x)] (XI) Title 14, Subtitle 20 of this article;

27 [(xi)] (XII) Title 14, Subtitle 15 of this article, the Automotive  
28 Warranty Enforcement Act;

29 [(xii)] (XIII) Title 14, Subtitle 21 of this article;

30 [(xiii)] (XIV) Section 18-107 of the Transportation Article;

1 [(xiv)] (XV) Title 14, Subtitle 22 of this article, the Maryland  
2 Telephone Solicitations Act;

3 [(xv)] (XVI) Title 14, Subtitle 23 of this article, the Automotive Crash  
4 Parts Act;

5 [(xvi)] (XVII) Title 10, Subtitle 6 of the Real Property Article;

6 [(xvii)] (XVIII) Title 10, Subtitle 8 of the Real Property Article;

7 [(xviii)] (XIX) Title 14, Subtitle 25 of this article, the Hearing Aid  
8 Sales Act; or

9 [(xix)] (XX) Title 14, Subtitle 26 of this article, the Maryland  
10 Door-to-Door Solicitations Act; or

11 SUBTITLE 10A. MARINE REPAIR FACILITIES.

12 14-10A-01.

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

15 (B) (1) "MARINE REPAIR FACILITY" MEANS ANY PERSON WHO DIAGNOSES  
16 OR CORRECTS MALFUNCTIONS OF A VESSEL FOR FINANCIAL PROFIT.

17 (2) "MARINE REPAIR FACILITY" DOES NOT INCLUDE MARINE  
18 SURVEYORS.

19 (C) "PERSON" INCLUDES AN INDIVIDUAL, CORPORATION, BUSINESS TRUST,  
20 ESTATE, TRUST, PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS HAVING A  
21 JOINT OR COMMON INTEREST, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

22 (D) "VESSEL" HAS THE MEANING STATED IN § 8-701 OF THE NATURAL  
23 RESOURCES ARTICLE.

24 14-10A-02.

25 THIS SUBTITLE DOES NOT APPLY TO VESSELS WEIGHING OVER 200 TONS TVM  
26 (TOTAL VOLUMETRIC MEASUREMENT).

27 14-10A-03.

28 (A) (1) BEFORE BEGINNING ANY REPAIR WORK ON A VESSEL FOR WHICH A  
29 CUSTOMER IS CHARGED MORE THAN \$50, A MARINE REPAIR FACILITY SHALL GIVE  
30 THE CUSTOMER ON THE CUSTOMER'S REQUEST A WRITTEN STATEMENT WHICH  
31 CONTAINS:

32 (I) THE ESTIMATED COMPLETION DATE;

1 (II) THE ESTIMATED PRICE FOR LABOR AND PARTS NECESSARY TO  
2 COMPLETE THE WORK; AND

3 (III) THE ESTIMATED SURCHARGE, IF ANY.

4 (2) A MARINE REPAIR FACILITY MAY CHARGE A REASONABLE FEE FOR  
5 MAKING THE ESTIMATE IF THE FEE IS DISCLOSED TO THE CUSTOMER BEFORE THE  
6 ESTIMATE IS MADE.

7 (B) A MARINE REPAIR FACILITY MAY NOT CHARGE A CUSTOMER, WITHOUT  
8 THE CUSTOMER'S CONSENT, ANY AMOUNT WHICH EXCEEDS THE WRITTEN  
9 ESTIMATE BY 20 PERCENT.

10 (C) A MARINE REPAIR FACILITY IS NOT LIABLE FOR BREACH OF THE WRITTEN  
11 ESTIMATED COMPLETION DATE FOR A REPAIR IF THE DELAY IS CAUSED BY:

12 (1) AN ACT OF GOD;

13 (2) STRIKE;

14 (3) UNEXPECTED ILLNESS; OR

15 (4) UNEXPECTED SHORTAGE OF LABOR OR PARTS.

16 (D) THIS SECTION DOES NOT REQUIRE A MARINE REPAIR FACILITY TO GIVE A  
17 WRITTEN ESTIMATE IF THE MARINE REPAIR FACILITY DOES NOT AGREE TO  
18 PERFORM THE REQUESTED REPAIR WORK.

19 14-10A-04.

20 (A) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, BEFORE  
21 BEGINNING ANY REPAIR WORK ON A VESSEL, A MARINE REPAIR FACILITY SHALL  
22 GIVE THE CUSTOMER A COPY OF A FORM USED FOR AUTHORIZATION OF REPAIRS  
23 THAT SHALL INFORM THE CUSTOMER OF THE FOLLOWING RIGHTS:

24 (1) THAT A CUSTOMER:

25 (I) MAY REQUEST A WRITTEN ESTIMATE FOR REPAIRS THAT COST  
26 IN EXCESS OF \$50; AND

27 (II) MAY NOT BE CHARGED ANY AMOUNT THAT EXCEEDS THE  
28 WRITTEN ESTIMATE BY 20 PERCENT WITHOUT THE CUSTOMER'S CONSENT;

29 (2) THAT THE CUSTOMER IS ENTITLED TO THE RETURN OF ANY  
30 REPLACED PARTS EXCEPT WHEN PARTS ARE REQUIRED TO BE RETURNED TO THE  
31 MANUFACTURER OR DISTRIBUTOR UNDER A WARRANTY AGREEMENT; AND

32 (3) THAT REPAIRS NOT ORIGINALLY AUTHORIZED BY THE CUSTOMER  
33 MAY NOT BE CHARGED TO THE CUSTOMER WITHOUT THE CUSTOMER'S CONSENT.

1 (B) THE CUSTOMER'S RIGHTS PROVIDED IN SUBSECTION (A) OF THIS SECTION  
2 SHALL BE:

3 (1) CONSPICUOUSLY DISPLAYED IMMEDIATELY BEFORE THE SPACE  
4 FOR THE SIGNATURE OF THE CUSTOMER IN EASILY READABLE TYPE;

5 (2) PHYSICALLY SEPARATED FROM THE OTHER TERMS OF THE FORM  
6 USED FOR AUTHORIZATION OF REPAIRS; AND

7 (3) LISTED UNDER THE PRINTED HEADING "CUSTOMER'S RIGHTS".

8 (C) THE REPAIR AUTHORIZATION FORM SHALL STATE CLEARLY:

9 (1) ALL EXPRESS WARRANTIES OFFERED BY THE MARINE REPAIR  
10 FACILITY; OR

11 (2) THE FACT THAT THE MARINE REPAIR FACILITY OFFERS NO EXPRESS  
12 WARRANTIES.

13 (D) (1) A MARINE REPAIR FACILITY MAY INFORM THE CUSTOMER ORALLY  
14 OF THE CUSTOMER'S RIGHTS IF:

15 (I) THE CUSTOMER'S INOPERATIVE VESSEL IS TOWED BY WATER  
16 TO THE MARINE REPAIR FACILITY FOR REPAIR; OR

17 (II) THE CUSTOMER LEAVES THE VESSEL FOR REPAIR AT THE  
18 MARINE REPAIR FACILITY WHEN THE MARINE REPAIR FACILITY IS NOT OPEN.

19 (2) UNDER THIS SUBSECTION, IF ANY MARINE REPAIR FACILITY  
20 INFORMS A CUSTOMER ORALLY OF THE CUSTOMER'S RIGHTS, THE MARINE REPAIR  
21 FACILITY SHALL RECORD IN WRITING:

22 (I) THE NAME OF THE PERSON NOTIFIED;

23 (II) THE DATE AND TIME OF THE NOTIFICATION; AND

24 (III) THE SIGNATURE OF THE PERSON WHO MADE THE  
25 NOTIFICATION.

26 14-10A-05.

27 (A) A MARINE REPAIR FACILITY SHALL PREPARE AN INVOICE THAT  
28 DESCRIBES:

29 (1) ALL WORK DONE BY THE MARINE REPAIR FACILITY, INCLUDING ALL  
30 WARRANTY WORK; AND

31 (2) ALL PARTS SUPPLIED BY THE MARINE REPAIR FACILITY.

32 (B) THE INVOICE SHALL STATE CLEARLY:

1 (1) IF ANY USED, REBUILT, OR RECONDITIONED PARTS HAVE BEEN  
2 SUPPLIED OR IF A PART OF A COMPONENT SYSTEM SUPPLIED IS COMPOSED OF USED,  
3 REBUILT, OR RECONDITIONED PARTS; AND

4 (2) (I) ALL EXPRESS WARRANTIES OFFERED BY THE MARINE REPAIR  
5 FACILITY; OR

6 (II) THE FACT THAT THE MARINE REPAIR FACILITY OFFERS NO  
7 EXPRESS WARRANTIES.

8 (C) AFTER THE CUSTOMER SIGNS THE INVOICE, THE MARINE REPAIR  
9 FACILITY SHALL GIVE THE CUSTOMER A COPY OF THE INVOICE AND RETAIN A COPY.  
10 14-10A-06.

11 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A MARINE  
12 REPAIR FACILITY SHALL:

13 (1) OFFER TO RETURN ALL REPLACED PARTS TO THE CUSTOMER; AND

14 (2) RETURN THE REPLACED PARTS TO THE CUSTOMER IF THE  
15 CUSTOMER ACCEPTS THE OFFER.

16 (B) SUBSECTION (A) OF THIS SECTION DOES NOT APPLY TO REPLACED PARTS  
17 THAT ARE REQUIRED TO BE RETURNED TO THE MANUFACTURER OR DISTRIBUTOR  
18 UNDER A WARRANTY AGREEMENT.

19 14-10A-07.

20 (A) A MARINE REPAIR FACILITY MAY NOT CHARGE THE CUSTOMER FOR  
21 REPAIRS NOT ORIGINALLY AUTHORIZED OR REQUESTED BY THE CUSTOMER.

22 (B) ADDITIONAL REPAIRS MAY BE CHARGED TO THE CUSTOMER IF THE  
23 MARINE REPAIR FACILITY RECEIVES WRITTEN OR ORAL PERMISSION FROM THE  
24 CUSTOMER.

25 14-10A-08.

26 A VIOLATION OF ANY PROVISION OF THIS SUBTITLE IS AN UNFAIR OR  
27 DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE  
28 AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN  
29 TITLE 13.

30 14-10A-09.

31 THIS SUBTITLE DOES NOT:

32 (1) PROHIBIT A PERSON FROM FILING AN ACTION FOR DAMAGES  
33 AGAINST A MARINE REPAIR FACILITY; OR

1                   (2)       REQUIRE A PERSON FIRST TO EXHAUST ANY ADMINISTRATIVE  
2 REMEDY THAT THE PERSON MAY HAVE.

3       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2000.